



Billing Code 3720-58

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

[COE-2017-0007]

United States Air Force 81st Security Forces Anti-Terrorism Office, Restricted Area, Keesler Air Force Base, Biloxi, Mississippi.

AGENCY: U.S. Army Corps of Engineers, DoD

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is proposing to establish a no anchorage restricted area within waters along the Back Bay of Biloxi shoreline of the Keesler Air Force Base (KAFB) located in Biloxi, Mississippi, on behalf of a request by the United States Air Force (USAF) 81st Security Forces Anti-Terrorism Office. The proposed no anchorage restricted area will be established by placing 12 buoys to demarcate the approximately 10,000 feet of shoreline east to west and extend approximately 150 feet from the shoreline of the base. The proposed restricted area is essential to address a major anti-terrorism and safety concern due to the lack of perimeter fencing or physical denial system.

DATES: Written comments must be submitted on or before [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by docket number COE-2017-0007, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

E-mail: david.b.olson@usace.army.mil. Include the docket number COE-2017-0007 in the subject line of the message.

Mail: U.S. Army Corps of Engineers, Attn: CECW-CO (David B. Olson), 441 G Street NW, Washington, DC 20314-1000.

Hand Delivery / Courier: Due to security requirements, we cannot receive comments by hand delivery or courier.

Instructions: Direct your comments to docket number COE-2017-0007. All comments received will be included in the public docket without change and may be made available on-line at <http://regulations.gov> , including any personal information provided, unless the commenter indicates that the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through regulations.gov or e-mail. The regulations.gov web site is an anonymous access system, which means we will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to the Corps without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, we recommend that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If we cannot read your comment because of technical difficulties and cannot contact you for clarification, we may not be

able to consider your comment. Electronic comments should avoid the use of any special characters, any form of encryption, and be free of any defects or viruses.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov . All documents in the docket are listed. Although listed in the index, some information is not publicly available, such as CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

FOR FURTHER INFORMATION CONTACT: Mr. David Olson, Headquarters, Operations and Regulatory Community of Practice, Washington, D.C. at 202-761-4922 or Mr. Don Mroczko, U.S. Army Corps of Engineers, Mobile District, at 251-690-3185.

SUPPLEMENTARY INFORMATION: The 81st Security Forces Anti-Terrorism Office, KAFB, located in Biloxi, Mississippi is responsible for USAF perimeter security at KAFB located in Biloxi, Mississippi. In accordance with Department of Defense and Department of the Air Force guidance, the 81st Security Forces Anti-Terrorism Office is responsible for the antiterrorism efforts and force protection of Department of the Air Force assets under his or her charge.

In response to a request by the USAF, and pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat 892; 33 U.S.C. 3), the Corps is proposing to amend the regulations in 33 CFR Part 334 by establishing a new restricted area.

Procedural Requirements

a. Regulatory Planning and Review.

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This proposed rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this proposed rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

The Corps has made a determination this proposed rule is not a significant regulatory action. This regulatory action determination is based on the size, duration, and location of the restricted area. The restricted area occupies a small portion of the waterway and a vessel that needs to transit the restricted area may do so if the operator of the vessel obtains permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB or its authorized representative.

b. Impact on Small Entities.

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Corps certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. While some owners or operators of vessels that intend to transit the restricted area may be small

entities, for the reasons stated in paragraph (a) above this rule would not have a significant economic impact on any vessel owner or operator. In addition, the restricted area is necessary to address a major anti-terrorism and safety concern due to the lack of perimeter fencing or physical denial system. Small entities can utilize navigable waters outside of the restricted area. Small entities may also transit the restricted area as long as they obtain permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB, Biloxi, Mississippi, or its authorized representative. The restricted area is necessary for security of KAFB. Unless information is obtained to the contrary during the comment period, the Corps expects that the economic impact of the proposed restricted area would have practically no impact on the public, any anticipated navigational hazard or interference with existing waterway traffic. After considering the economic impacts of this restricted area regulation on small entities, I certify that this action will not have a significant impact on a substantial number of small entities.

c. Review Under the National Environmental Policy Act.

The Corps expects that the proposed rule will not have a significant impact to the quality of the human environment and, therefore, preparation of an environmental impact statement will not be required. An environmental assessment will be prepared after the public notice period is closed and all comments have been received and considered. After it is prepared, it may be reviewed at the District office listed at the end of the FOR FURTHER INFORMATION CONTACT, above.

d. Unfunded Mandates Act.

The proposed rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the

requirements of Section 202 or 205 of the Unfunded Mandates Reform Act (Public Laws 104-4, 109 Stat. 48, 2 U.S.C. 1501 et seq.). We have also found, under Section 203 of the Act, that small governments will not be significantly or uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger Zones, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR Part 334 as follows:

PART 334 – DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for 33 CFR part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Add § 334.787 to read as follows:

§ 334.787 81st Security Forces Anti-Terrorism Office, Keesler Air Force Base, Biloxi, Mississippi; No Anchorage Restricted Area.

(a) *The area.* The restricted area shall encompass all navigable waters of the United States, as defined at 33 CFR part 329, contiguous to the area identified as Keesler Air Force Base (KAFB) and the mean high water level within an area bounded by the shore and buoys from the east to the west of the area starting at: latitude 30°25'11.73"N longitude 88°54'57.69"W, thence to latitude 30°25'11.85"N longitude 88°55'3.46"W, thence to latitude 30°25'8.00"N longitude 88°55'10.10"W, thence to latitude 30°25'4.15"N longitude 88°55'16.74"W, thence to latitude 30°25'6.96"N longitude 88°55'24.12"W, thence to latitude 30°25'1.83"N longitude 88°55'30.01"W, thence to latitude 30°24'56.15"N longitude 88°55'34.16"W, thence to latitude 30°24'51.14"N

longitude 88°55'39.56"W, thence to latitude 30°24'47.48"N longitude 88°55'46.64"W, thence to latitude 30°24'51.08"N longitude 88°55'53.46"W, thence to latitude 30°24'55.30"N longitude 88°55'59.91"W, thence to latitude 30°24'56.87"N longitude 88°56'7.40"W. The datum is NAD-83.

(b) *The regulations.* (1) All persons, swimmers, vessels and other craft, except those vessels under the supervision or contract to local military or USAF authority, vessels of the United States Coast Guard, and local or state law enforcement vessels, are prohibited from entering the restricted area without permission from the USAF 81st Security Forces Anti-Terrorism Office, KAFB or its authorized representative.

(2) The restricted area is in effect twenty-four hours per day and seven days a week (24/7).

(3) Should warranted access into the restricted navigation area be needed, all entities are required to contact the USAF 81st Security Forces Anti-Terrorism Office, KAFB, Biloxi, Mississippi, or its authorized representative.

(c) *Enforcement.* The regulation in this section shall be enforced by the USAF 81st Security Forces Anti-Terrorism Office, KAFB and/or such agencies or persons as that office may designate.

Dated: November 9, 2017.

Thomas P. Smith, P.E.

Chief, Operations and Regulatory Division

Directorate of Civil Works

[FR Doc. 2017-24892 Filed: 11/15/2017 8:45 am; Publication Date: 11/16/2017]